



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

FEB 26 2016

Benjamin S. Lippard
Vinson & Elkins, LLP
2200 Pennsylvania Avenue NW, Suite 500 West
Washington, DC 20037-1701

Dear Mr. Lippard:

Your letter to EPA Administrator Gina McCarthy, dated February 5, 2016, sent on behalf of your clients, Tierra Solutions, Inc., Maxus Energy Corporation and Occidental Chemical Corporation, has been referred to me for response.

In your letter, you propose that Region 2 postpone issuance of a Record of Decision (ROD) for the lower eight miles of the Lower Passaic River until completion of a Government Accountability Office (GAO) review of various Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) sediment "megasites." You suggest that the purpose of this delay would be to ensure that the ROD follows "EPA policies, procedures and guidelines."

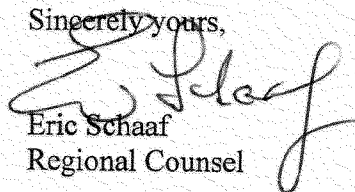
As you know, EPA issued a Proposed Plan for the sediments of the lower 8.3 miles of the Lower Passaic River in April 2014. During the public comment period that ended in August 2014, your clients and other stakeholders submitted thousands of comments. In accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and EPA's policies and guidance, EPA is carefully and thoroughly reviewing, considering and responding to the comments, as appropriate, as part of the CERCLA remedy selection process.

The GAO sediment site review commenced in late summer 2015. The GAO team is currently engaged in a series of conversations with EPA regional offices and is gathering information on a substantial number of sediment sites. We are advised by the GAO that completion of its review is not imminent and that it will be months before there is even a draft report; EPA will not, therefore, postpone our remedy selection decision until after completion of the GAO report.

While EPA cannot predict the outcome of the GAO review, we are confident that when our decision making process is complete, the ROD for the sediments of the lower 8.3 miles of the

Passaic River will be based on sound scientific analyses and will be consistent with CERCLA and the NCP, as well as all applicable EPA policies, procedures and guidance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Eric Schaaf", written over the printed name and title.

Eric Schaaf
Regional Counsel